

# HOUSE BILL No. 1293

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 36-1-12.

**Synopsis:** Performance bond for a demolition contractor. Provides that if a contractor enters into a public work contract with a political subdivision under which the contractor is to demolish a building and remove the demolition debris, the contractor is required to furnish a performance bond equal to the contract price plus, if applicable, a reasonable estimate of the value of any salvage materials to which the contractor will be entitled, regardless of the amount to be paid to the contractor under the contract.

**Effective:** July 1, 2015.

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January 13, 2015, read first time and referred to Committee on Local Government.

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First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## HOUSE BILL No. 1293

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A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1       SECTION 1. IC 36-1-12-1.2, AS AMENDED BY P.L.91-2014,  
2       SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2015]: Sec. 1.2. The following definitions apply throughout  
4       this chapter:  
5       (1) "Board" means the board or officer of a political subdivision  
6       or an agency having the power to award contracts for public work.  
7       (2) "Contractor" means a person who is a party to a public work  
8       contract with the board.  
9       (3) "Subcontractor" means a person who is a party to a contract  
10      with the contractor and furnishes and performs labor on the public  
11      work project. The term includes material men who supply  
12      contractors or subcontractors.  
13      (4) "Escrowed income" means the value of all property held in an  
14      escrow account over the escrowed principal in the account.  
15      (5) "Escrowed principal" means the value of all cash and



securities or other property placed in an escrow account.

(6) "Operating agreement" has the meaning set forth in IC 5-23-2-7.

**(7) "Performance bond" means an approved form of security that guarantees a contractor's complete execution of the contract and all supplemental agreements.**

~~(7)~~ **(8)** "Person" means any association, corporation, limited liability company, fiduciary, individual, joint venture, partnership, sole proprietorship, or any other legal entity.

~~(8)~~ **(9)** "Property" means all:

(A) personal property, fixtures, furnishings, inventory, and equipment; and

(B) real property.

~~(9)~~ **(10)** "Public fund" means all funds that are:

(A) derived from the established revenue sources of a political subdivision or an agency of a political subdivision; and

(B) deposited in a general or special fund of a municipal corporation, or another political subdivision or agency of a political subdivision.

The term does not include funds received by any person managing or operating a public project under a duly authorized operating agreement under IC 5-23 or proceeds of bonds payable exclusively by a private entity.

~~(10)~~ **(11)** "Retainage" means the amount to be withheld from a payment to the contractor or subcontractor until the occurrence of a specified event.

~~(11)~~ **(12)** "Specifications" means a description of the physical characteristics, functional characteristics, extent, or nature of any public work required by the board.

~~(12)~~ **(13)** "Substantial completion" refers to the date when the construction of a structure is sufficiently completed, in accordance with the plans and specifications, as modified by any complete change orders agreed to by the parties, so that it can be occupied for the use for which it was intended.

SECTION 2. IC 36-1-12-14.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 14.5. (a) This section applies to a public work contract involving:**

**(1) the demolition of a building or other structure; and**

**(2) the removal of demolition debris from the site of the demolition;**

**regardless of the amount to be paid to the contractor under the**



1 contract.

2 (b) A contractor that enters into a contract described in  
3 subsection (a) shall furnish the board awarding the contract with  
4 a performance bond equal to:

5 (1) the amount, if any, to be paid to the contractor under the  
6 contract for the demolition of the building or other structure;  
7 plus

8 (2) if the contractor will be entitled to salvage materials from  
9 the demolished building or other structure, a reasonable  
10 estimate of the value of materials that the contractor will be  
11 entitled to salvage.

12 (c) With the consent of the board, a performance bond  
13 furnished under this section may provide for incremental bonding  
14 in the form of multiple or chronological bonds that, when taken as  
15 a whole, equal the contract price.

16 (d) The surety on a performance bond furnished under this  
17 section may not be released until one (1) year after the date of the  
18 board's final settlement with the contractor. The performance  
19 bond must specify that:

20 (1) a modification, omission, or addition to the terms and  
21 conditions of the public work contract, plans, specifications,  
22 drawings, or profile;

23 (2) a defect in the public work contract; or

24 (3) a defect in the proceedings preliminary to the letting and  
25 awarding of the public work contract;

26 does not discharge the surety.

27 (e) An action against a surety on a performance bond furnished  
28 under this section must be brought within one (1) year after the  
29 date of the board's final settlement with the contractor.

